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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

BERNARD et al. v. McCLANAHAN.

Nov. 20, 1913.

[79 S. E. 1059.]

1. Landlord and Tenant (§ 229*)—Liability for Rent—Property of Undertenant—Attachment.—Under Code 1904, § 2791, making an undertenant's goods liable for rent, and section 2962, rendering goods liable to be distrained liable to attachment, the goods of an undertenant may be attached for rent not due, as well as for rent past due, where he has removed same from the leased premises in violation of the latter section.

[Ed. Note.—For other cases, see Landlord and Tenant, Cent. Dig. §§ 948-974; Dec. Dig. § 229.* 2 Va.-W. Va. Enc. Dig. 83.]

2. Attachment (§ 91*)—Affidavit—Clerical Error.—That an attachment affidavit was written on a printed form containing the name "Corporation Court," instead of "Court of Law and Chancery," at the top of the paper did not invalidate the affidavit, where such mistake was not repeated elsewhere in the paper, and the clerk certified that the affidavit was filed in the court of law and chancery.

[Ed. Note.—For other cases, see Attachment, Cent. Dig. §§ 231-237; Dec. Dig. § 91.* 2 Va.-W. Va. Enc. Dig. 93; 14 Va.-W. Va. Enc. Dig. 133; 15 Va.-W. Va. Enc. Dig. 97.]

3. Landlord and Tenant (§ 229*)—Attachment for Rent Not Due—Right of Action.—An undertenant's goods may be attached for rent under Code 1904, § 2962, authorizing the attachment, and section 2791, making goods of an undertenant on the premises liable for rent, though an action at law brought to recover the rent never matures for hearing.

[Ed. Note.—For other cases, see Landlord and Tenant, Cent. Dig. §§ 948-974; Dec. Dig. § 229.* 2 Va.-W. Va. Enc. Dig. 83.]

4. Landlord and Tenant (§ 229*)—Order—Construction—Personal Judgment.—Where an order in attachment for rent under Code 1904, § 2962, was in the usual form, and stated that the goods levied on were liable and ordered a sale, it as not open to objection on the ground that it was a personal judgment, instead of merely a judgment in rem,

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

in an action wherein jurisdiction was not obtained over defendant's person.

[Ed. Note.—For other cases, see *Landlord and Tenant*, Cent. Dig. §§ 948-974; Dec. Dig. § 229.* 2 Va.-W. Va. Enc. Dig. 83.]

Error to Law and Chancery Court of City of Roanoke.

Action by W. F. McClanahan against W. T. Bernard and others. Judgment for plaintiff, and defendants bring error. Affirmed.

Hall & Woods, of Roanoke, for plaintiffs in error.

Johnston & Izard, of Roanoke, and *John W. Carter*, of Martinsville, for defendant in error.

GRIEF *v.* KEGLEY, Judge.

Sept. 11, 1913.

[79 S. E. 1062.]

1. Taxation (§ 466*)—Assessment of Mineral Lands—Review and Correction—Statute.—Code 1904, § 437a, as amended by Acts 1910, c. 39, provides for a separate assessment of all mineral lands and for the certification thereof to the State Corporation Commission, which shall examine into the justice of the assessments and, if not assessed at its fair market value, direct the commonwealth's attorney to apply to have such assessment corrected, and that any person aggrieved by such assessment may also apply to have it corrected with the right of appeal. Code 1904, § 567, provides that any person aggrieved by an assessment may, "unless otherwise expressly provided by law," apply to the court for relief; section 568 provides for correction by the court; and section 573 that, if the auditor of public accounts shall deem the court's order erroneous, he may within one year thereafter file a petition for a rehearing. Held, that section 437a, as amended, furnished all the procedure for protecting the rights of the commonwealth in a proceeding to correct erroneous assessments of mineral lands; that section 567 excluded the correction of such assessments from the operation of that section and of sections 568, 573; and hence that the auditor of public accounts could not apply thereunder for a rehearing of a mineral land assessment.

[Ed. Note.—For other cases, see *Taxation*, Cent. Dig. §§ 829, 830; Dec. Dig. § 466.* 13 Va.-W. Va. Enc. Dig. 105; 14 Va.-W. Va. Enc. Dig. 1002; 15 Va.-W. Va. Enc. Dig. 980.]

2. Prohibition (§ 10*)—Grounds—Want or Excess of Jurisdiction.—Prohibition, while not lying to correct error, lies to prevent a court from acting where it has no jurisdiction or is exceeding its juris-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.